

1 RENE L. VALLADARES
Federal Public Defender
2 Nevada State Bar No. 11479
AMY B. CLEARY
3 Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
4 Las Vegas, Nevada 89101
(702) 388-6577/Phone
5 Amy_Cleary@fd.org

6 Attorney for Michael Cernak

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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 United States Of America,

11 Plaintiff,

12 v.

13 Michael Anthony Cernak,

14 Defendant.
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Case No. 2:03-cr-534-KJD-RJJ

**Stipulation to Continue
Supplement Deadline to
Motion for Compassionate
Release**

(Fourth Request)

17 IT IS HEREBY STIPULATED AND AGREED, between Assistant United
18 States Attorney Elizabeth O. White, counsel for the United States of America,
19 and Assistant Federal Public Defender Amy B. Cleary, counsel for
20 Michael Anthony Cernak, that the due date for Mr. Cernak's Supplement to
21 Motion for Compassionate Release (ECF No. 172), be extended approximately 30
22 days from June 9, 2022 to July 11, 2022.

23 This Stipulation is entered into for the following reasons:

- 24 1. Undersigned counsel confirmed Mr. Cernak was the victim of sexual
25 assault by a Bureau of Prisons (BOP) correction officer who was then federally
26 convicted for the crime under 18 U.S.C. § 2243(b)—Sexual abuse of a ward. *See*

1 *United States v. Jack Chris Jackson*, Case No. 11-20630-CR-LENARD (S.D. Fla);
2 Department of Justice Press Release, *U.S. Bureau of Prison Employee Pleads*
3 *Guilty in Florida to Sexual Abuse of a Ward*, Dec. 20, 2011 (updated
4 Aug. 24, 2015), [https://www.justice.gov/opa/pr/us-bureau-prisons-employee-](https://www.justice.gov/opa/pr/us-bureau-prisons-employee-pleads-guilty-florida-sexual-abuse-ward)
5 [pleads-guilty-florida-sexual-abuse-ward](https://www.justice.gov/opa/pr/us-bureau-prisons-employee-pleads-guilty-florida-sexual-abuse-ward).

6 2. Undersigned counsel, at the request of local government counsel and
7 government counsel who prosecuted defendant Jack Chris Jackson issued two
8 *Touhy* requests pursuant to 28 C.F.R. § 1621 *et seq.* seeking information to
9 provide to the Court regarding Mr. Cernak's victimization. One request was
10 directed to the Department of Justice (DOJ) and one was directed to the Federal
11 Bureau of Investigation (FBI). Undersigned counsel received the DOJ's
12 response over the last few months, but the FBI's just produced its *Touhy*
13 response on June 1, 2022.

14 3. Further, as undersigned counsel has advised, the BOP facility in which
15 Mr. Cernak is incarcerated, Yazoo City Low FCI, previously refused to permit
16 Mr. Cernak to speak to the undersigned in a confidential legal call. *See* ECF No.
17 177, p. 2. After unsuccessfully trying to resolve this issue with Yazoo City's
18 warden, ECF No. 77, p. 2, it was therefore necessary for undersigned counsel to
19 repeatedly communicate with the BOP's regional counsel to request assistance
20 in facilitating a confidential legal call.

21 4. Today, June 2, 2022, Mr. Cernak has finally been scheduled to have a legal
22 call with undersigned counsel, with the call scheduled to take place next week.
23 However, it is unclear if all the issues concerning this sensitive matter will be
24 able to be accomplished in a single phone call with Mr. Cernak to allow
25 preparation of his supplemental response to his motion for compassionate
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1 release, especially given the disclosures that have been made by the DOJ and
2 FBI.

3 5. Additional time is therefore necessary for undersigned counsel to prepare
4 the supplement to his pro se motion for compassionate release so counsel may
5 speak confidentially with him next week and schedule any additional
6 confidential legal calls that may be necessary.

7 4. The parties agree to the requested continuance.

8 5. The additional time requested by this stipulation is made in good faith and
9 not for purposes of delay.

10 This is the fourth request for a continuance of the supplement deadline.

11 DATED June 2, 2022.

12 RENE L. VALLADARES
13 Federal Public Defender

JASON M. FRIERSON
United States Attorney

14 By s/ Amy B. Cleary
15 AMY B. CLEARY
Assistant Federal Public Defender

By s/ Elizabeth O. White
ELIZABETH O. WHITE
Assistant United States Attorney

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 United States Of America,
4
5 Plaintiff,

6 v.

7 Michael Anthony Cernak,
8 Defendant.

Case No. 2:03-cr-534-KJD-RJJ

ORDER

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10 IT IS THEREFORE ORDERED that upon consideration of Defendant's
11 Request to Extend Deadline for filing his Supplement to Motion for
12 Compassionate Release, that the Defendant's deadline to file his Supplement is
13 extended to July 11, 2022, and the Government will have 14 days from the day
14 the Supplement is filed, to file a response.

15 DATED this 3rd day of June, 2022.

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18 UNITED STATES DISTRICT JUDGE
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